

Dormant Company - Section 455 of the Companies Act 2013

(1) Where a company is formed and registered for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of a **dormant company**.

- The first part of the definition covers the companies registered and formed under the Companies Act 2013 which have no significant accounting transactions but hold assets or are incorporated for a future project in which there are no transactions presently, such Companies can apply for dormant status.

- The second part of the definition covers the companies registered and formed under the Companies Act 1956 - dealing with Inactive Companies which means a company which has not been carrying on any business or operation or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years;

- “Significant Accounting Transaction” means any transaction other than:

- payment of fees by a company to the Registrar;
- payments made by it to fulfill the requirements of this Act or any other law;
- allotment of shares to fulfill the requirements of this Act; and
- payments for maintenance of its office and records.

- The dormant status is especially beneficial for companies which have no significant transactions presently and are not carrying on any business but they cannot be closed down due to holding of assets in the companies such as land, building etc. Ex: Construction companies, Real Estate Companies etc.

- Dormant status is also beneficial for companies which are incorporated for undertaking a future project which will take place after sometime. These Companies can reduce compliance and costs by applying for dormant status till the time they become fully operational.

- Dormant Companies are also exempted from the following legal compliances:

- a) To include cash flow statements in their financial statements.
- b) From holding board meeting in each quarter. Dormant companies are required to hold board meeting in each half of the calendar year with a gap of at least 90 days. Therefore, dormant companies are required to hold only two board meetings mandatorily during the year.
- c) The provisions of the Act in relation to the rotation of auditors shall not apply to dormant companies.

Compliances prescribed under The Companies Act 2013 for a Dormant Company

a) Return of dormant companies: A dormant company shall file a “Return of Dormant Company” annually, indicating financial position duly audited by a chartered accountant in Form MSC-3 within a period of thirty days from the end of each financial year.

b) Such Dormant company shall continue to file the return or returns of allotment and change in directors in the manner and within the time specified in the Companies Act 2013, whenever the company allots any shares/security to any person or there is any change in the directors of the company

Further, a company having ‘Dormant’ status can, at any time, apply for obtaining status of an Active company by filing Form MSC-4 with Ministry of Corporate Affairs

It is to be kept in mind that a company having ‘Dormant’ status can hold such status for a maximum period of 5 years, post which its name shall get struck off from Register of Companies maintained by Ministry of Corporate Affairs